

**Remarks**

The present amendment is in response to the action mailed in the above-referenced case on January 21, 2005. Claims 1-42 are presented for examination. The Examiner, in paragraph 2 of the detailed action, states that the applicant has not complied with certain conditions required for receiving the benefit of an earlier filing date under 35 U.S.C. 120. Applicant respectfully points out that the Cross-Reference section of applicant's as-filed application in the present case states that this application is a continuation-in-part (CIP) of 09/766,271, which is a CIP of 09/710,042. A CIP is defined as having new matter beyond that disclosed in the priority application, and that is indeed the case here. Priority, however, does not attach to the application, as the Examiner implies, but to an individual claim, and attaches according to whether or not the claim is fully supported by the priority document. The claims standing for examination in this case, as of the time of the Examiner's action, were drafted using, at least in part, the new matter added, and as such are entitled, as the Examiner says, only to the filing date of the new matter as priority, which is 08/17/2001. The Examiner is incorrect, however, in the implication that the case itself is only entitled to 08/17/2001. Should a claim or claims be amended or added in the instant case in a manner that the claim or claims recite only matter disclosed in one or the other of the priority documents, then that claim or claims will be entitled to the earlier date that the subject matter was disclosed.

Further to the above, the Examiner rejects claims 1-17, 28 and 31-42 under 35 U.S.C. 103(a) as being unpatentable over Ben-Chanoch (US 6,707,906 A1) hereinafter Ben-Chanoch in view of Price (US 6,389,132) hereinafter Price.

In response to the Examiner's rejection and comments, applicant herein amends claim 18 to include a remote routing server providing instant message routing intelligence to the proxy server. Applicant provides valid arguments which clearly show that the art provided by the Examiner in supporting the rejections is inadequate to prove a proper

prima facie rejection for the independent claims left original and claim 18, as amended.

The Examiner, regarding independent claims 1 and 31, states that the reference Ben-Chanoch teaches routing system operable on a data-packet-network for intelligent routing of instant messages between clients connected to the network and customer service representatives (CSRs) connected to the network characterized in that clients connected to the network and operating instant message software connect to the instant message server for the purpose of establishing communication with available customer service representatives (col.2, lines 22-38), and wherein assertion of a connection link advertised by the instant message server establishes bi-directional communication between the client machine (col. 3, lines 11-18) identifying the client and version of instant message software used by the client for the purpose of routing the client request to an appropriate customer service representative thereby establishing an active instant message connection between the client and the selected customer service representative.(col .3, line 1-24).

Applicant respectfully disagrees with the Examiner's above interpretation of Ben-Chanoch. Applicant's independent claims clearly recite that the customer initiates the instant messaging communication and is routed to a customer service representative as a result of initiating a connection link advertised by the instant message server. Applicant argues that the art of Ben-Chanoch teaches an out-calling service only.

The portions of Ben-Chanoch relied upon by the Examiner in column 3 teaches that before the contact center tries an instant online communication form, (customer submitted form requesting communication) it may detect whether the targeted customer is online or not. Usually the customer is required to have a piece of small software running on its computer so that others can find he is online. If the targeted customer is found not online, the contact center will skip trying the online communications forms, and try telephone communications.

If the targeted customer is found online, the contact center may, according to the preset priority scheme, send a message to the customer informing him that a conversation is requested. The message will be shown to the customer immediately and the customer

may accept the request or deny it. If the targeted customer accepts the request, a 15 contact between the customer and the contact center is thus successfully established, and then the contact may be transferred to an available agent to begin the “conversation”. Clearly, the system taught in Ben-Chanoch does not receive an instant message request from a customer and connect the call during the same event. Ben-Chanoch must initiate the communication with the customer.

The Examiner also states that Ben-Chanoch explicitly fails to teach at least one intermediate server connected to and addressable on the network and accessible to the instant message server the intermediate server having access to routing rules and capability. The reference Price teaches “Contact Server 20 can manage the sequencing of multiple customers 10 requesting information to pool of agents 28.

Applicant argues that Price fails to teach the capability of routing received instant messages from customers based on routing rules and capability. Price teaches an ability to route phone calls, voice calls on the Web or e-mails. There is absolutely no capability in the art of Price to route instant messages, utilizing an intermediate server, based on enterprise rules stored in the intermediate server. The Examiner has failed to provide a valid reference that is capable of routing instant message protocol requests for communication from a client to a customer service representatives using an intermediate server based on enterprise rules.

Applicant believes claims 1 and 31 are patentable as argued extensively above. Applicant herein amends claim 18 to include a remote server making intelligent routing decisions for instant messaging requests from customers. Therefore, claim 18 is also patentable as amended and argued above. Dependent claims 2-17, 19-30 and 32 through 42 are patentable on their own merits, or at least as depended from a patentable claim.

Applicant believes the claims as amended and presented for examination are patentable to applicant over the references cited and applied, and therefore requests reexamination and that the case be passed quickly to issue.

If there are any extensions of time required beyond an extension specifically petitioned and paid with this response, such extensions are hereby requested. If there are

any fees due beyond any fees paid by check with this response, authorization is given to deduct such fees from deposit account 50-0534.

Respectfully Submitted,  
Yevgeniy Petrovykh

by   
Donald R. Boys  
Reg. No. 35,074

Central Coast Patent Agency  
P.O. Box 187  
Aromas, CA 95004  
(831) 726-1457